

STUART RABNER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
By: Joan D. Gelber
Deputy Attorney General
Tel. 973-648-2972

FILED

MAY 29, 2007

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF
JUAN CARLOS FISCHBERG, M.D.,
REVOCATION OF LICENSE No. 25MA048649
TO PRACTICE MEDICINE AND SURGERY
IN THE STATE OF NEW JERSEY

ADMINISTRATIVE ACTION
FINAL ORDER

This matter was opened to the State Board of Medical Examiners by the Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, regarding resolution of an investigation into the professional conduct of Juan Carlos Fischberg, M.D. Pursuant to the terms of an Interim Order entered January 15, 2004, copy attached, Dr. Fischberg was prohibited from engaging in any form of practice of medicine or surgery for a New Jersey patient. Dr. Fischberg represents that he did not thereafter engage in such practice.

Dr. Fischberg, a Diplomate of the American Board of Physical Medicine and Rehabilitation, maintained a medical practice under the corporate name "Hudson Rehabilitation Medical Center, Inc." since in or about 1992, at 321 60th St., West New York, NJ 07093, and other entities including "Pain Center of New Jersey" and "Pain Relief Center." His practice included electrodiagnostic testing and physiatric treatment of patients claiming injury in motor vehicle accidents ("PIP" claims) and patients covered by Medicare and Medicaid. Dr. Fischberg is represented by the law firm of Kern Augustine Conroy & Schoppmann, P.C., Bridgewater, New Jersey. Respondent's current address of record shall be on file with the Board of Medical Examiners.

CERTIFIED TRUE COPY

On or about October 11, 2006, Dr. Fischberg was the subject of State Grand Jury Indictment SGJ 528-06-14, Superior Court Docket #06-10-00115-S charging, in pertinent part, health care claims fraud. On or about May 21, 2007, Dr. Fischberg entered a plea of guilty to Count 1 of the aforementioned Indictment, Health Care Claims Fraud, second degree, in violation of N.J.S.A. 2C:21-4.3, in the Superior Court of New Jersey, Monmouth County, copy annexed. Pursuant to the terms of a plea agreement entered into by Dr. Fischberg and the Division of Criminal Justice, and accepted by the Court, Dr. Fischberg agreed to a permanent revocation of his professional medical license, assessment of penalties, costs and restitution, all as reflected in the final Order of Judgment of Conviction, to be attached hereto.

Dr. Fischberg, having had the opportunity to confer with his attorney, and desirous of resolving this matter amicably in lieu of the imminently anticipated litigation, acknowledges that he billed for electrodiagnostic services, including nerve conduction velocity tests, that had not been completed, in violation of N.J.S.A. 45:1-21(b), (e) and (f). In accordance with the aforementioned plea agreement, he agrees to the permanent surrender of his medical license, to be deemed a revocation.

The Board having considered the totality of the circumstances, and having determined to waive assessment of monetary penalty to the Board and, in light of Dr. Fischberg's resolution of SGJ 528-06-14 in accordance with the terms of the aforementioned plea agreement, having determined to refrain from assessing other penalties and remedies as otherwise authorized by N.J.S.A. 45:1-22 and 45:1-25, and for good cause shown,

IT IS, ON THIS 21st DAY OF May 2007
ORDERED:

1. The voluntary surrender by Juan Carlos Fischberg, M.D. of his license to practice medicine and surgery in the State of New Jersey is hereby accepted, and deemed a revocation with prejudice to any future petition for reinstatement.

2. Dr. Fischberg shall promptly return his original engrossed license, current biennial registration, and State Controlled Drug Registrations to the Board offices at P.O. Box 183, 140 E. Front St., Trenton, New Jersey 08625-0183, within 10 days of the entry of this Order.

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3. Dr. Fischberg shall immediately notify the federal Drug Enforcement Administration (DEA) of this Order.

4 Dr. Fischberg shall comply with the attached "Directives Applicable to Any Medical Board Licensee Who is Disciplined or Whose Surrender of Licensure Has Been Accepted," which is incorporated by reference herein

5 This Order is intended to resolve all administrative and license issues arising with Dr. Fischberg, which could have been alleged as violations by the Attorney General in administrative disciplinary proceedings with regard to Dr. Fischberg's responsibilities to the New Jersey State Board of Medical Examiners. The entry of this Order shall not limit the authority of the Attorney General or of any other person or agency, to initiate any other action permitted by law, whether administrative, civil or criminal, in any court of competent jurisdiction or other forum

THIS ORDER IS EFFECTIVE UPON ENTRY

STATE BOARD OF MEDICAL EXAMINERS

BY: Sindy Paul, M.D.
Sindy Paul, M.D.
President

I have read and understood the within Order and agree to be bound by its terms. I consent to the entry of the Order by the Board of Medical Examiners.

Juan Carlos Fischberg, M.D.

Witness:

Steven I. Kern, Esq.
Counsel to Dr. Fischberg

State of New Jersey		v.		New Jersey Superior Court Law Division - Criminal Monmouth County	
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 2px solid black; padding: 5px; text-align: center;"> FILED AUG 13 2007 SUPERIOR COURT OF NEW JERSEY MONMOUTH COUNTY CRIMINAL DIVISION </div> <div style="text-align: center;"> </div> </div>					
Defendant: (Specify Complete Name) Juan Fischberg					
DATE OF BIRTH	10/6/47	SBI NUMBER	<input checked="" type="checkbox"/> JUDGMENT OF CONVICTION <input type="checkbox"/> CHANGE OF JUDGMENT <input checked="" type="checkbox"/> ORDER FOR COMMITMENT <input type="checkbox"/> INDICTMENT / ACCUSATION DISMISSED <input type="checkbox"/> JUDGMENT OF ACQUITTAL		
DATE OF ARREST	5/24/07	DATE INDICTMENT/ ACCUSATION FILED			
DATE OF ORIGINAL PLEA	5/24/07	ORIGINAL PLEA	<input type="checkbox"/> Not Guilty <input checked="" type="checkbox"/> Guilty		
ADJUDICATION BY					
<input checked="" type="checkbox"/> GUILTY PLEA DATE: 5/24/07 <input type="checkbox"/> NON-JURY TRIAL DATE: _____ <input type="checkbox"/> JURY TRIAL DATE: _____ <input type="checkbox"/> DISMISSED / ACQUITTED DATE: _____					
ORIGINAL CHARGES					
IND / ACC NO.	COUNT	DESCRIPTION	DEGREE	STATUTE	
06-10-00115S	1	Health Care Claims Fraud	2	2C:21-4.3	
	2,3	Theft	2	2C:20-2B(4)	
	4,5	Falsifying Medical Records	4	2C:21-4.1	
	6	False Swearing	4	2C:28-2A	
	7	Conspiracy	2	2C:5-2	
	8	Money Laundering	1	2C:2-6	
FINAL CHARGES					
COUNT	DESCRIPTION			DEGREE	STATUTE
1	Health Care Claims Fraud treated as 3rd			2	2C:21-4.3
<p>It is, therefore, on <u>8/10/07</u> ORDERED and ADJUDGED that the defendant is sentenced as follows:</p> <p>Count 1: Three (3) years to the Custody of the Commissioner of Department of Corrections. Revoke NJ Medical License permanently. Restitution in the amount of \$2,126,243.09 has been made. \$50,000 Civil fine pursuant to NJSA 17:33A-1 has been made.</p> <p>Counts 2,3,4,5,6,7,8 are dismissed.</p>					
<input type="checkbox"/> The defendant is hereby sentenced to community supervision for life. <input type="checkbox"/> The defendant is hereby ordered to serve a _____ year term of parole supervision which term shall begin as soon as defendant completes the sentence of incarceration. <input type="checkbox"/> The court finds that the defendant's conduct was characterized by a pattern of repetitive and compulsive behavior. <input type="checkbox"/> The court finds that the defendant is amenable to sex offender treatment. <input type="checkbox"/> The court finds that the defendant is willing to participate in sex offender treatment. <p>The defendant is hereby ordered to provide a DNA sample and ordered to pay the costs for testing of the sample provided.</p>					
<input checked="" type="checkbox"/> It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority.					
<input type="checkbox"/> Defendant is to receive credit for time spent in custody (R. 3:21-8).			TOTAL NUMBER OF DAYS	DATE: (From/To)	
<input type="checkbox"/> Defendant is to receive gap time credit for time spent in custody (N.J.S.A. 2C:44-5b(2)).			TOTAL NUMBER OF DAYS	DATE: (From/To)	
				DATE: (From/To)	
				DATE: (From/To)	
Total Custodial Term		3 years	Institution	CCDC	
			Total Probation Term		

State of New Jersey v. **Juan Fischberg**

S.B.I. #

Ind / Acc # 06-10-0115S

Total Fine \$50,000

Total RESTITUTION \$2,126,243.09

If the offense occurred on or after December 23, 1991, an assessment of \$50 is imposed on each count on which the defendant was convicted unless the box below indicates a higher assessment pursuant to N.J.S.A. 2C:43-3.1. (Assessment is \$30 if offense is on or after January 9, 1986 but before December 23, 1991, unless a higher penalty is noted. Assessment is \$25 if offense is before January 9, 1986.)

☒ Assessment imposed on count(s) 1 is \$50.00 each.

Total VCCB Assessment \$50.00

Installment payments are due at the rate of \$_____ per _____ beginning _____ (Date)

If any of the offenses occurred on or after July 9, 1987, and is for a violation of Chapter 35 or 36 of Title 2C.

1) A mandatory Drug Enforcement and Demand Reduction (D.E.D.R.) penalty is imposed for each count. (Write in # times for each.)

_____ 1st Degree @ \$3000 _____ 4th Degree @ \$750
_____ 2nd Degree @ \$2000 _____ Disorderly Persons or Petty
_____ 3rd Degree @ \$1000 _____ Disorderly Persons @ \$500

Total D.E.D.R. Penalty \$_____

☐ Court further Orders that collection of the D.E.D.R. penalty be suspended upon defendant's entry into a residential drug program for the term of the program.
2) A forensic laboratory fee of \$50 per offense is ORDERED. _____ Offenses @ \$50

Total Lab Fee \$_____

3) Name of Drugs involved _____

4) A mandatory driver's license suspension of _____ months is ORDERED. The suspension shall begin today, _____ and end _____.

Driver's License Number _____

(IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING.)

Defendant's Address _____
Eye Color _____ Sex _____ Date of Birth 10/6/47

☐ The defendant is the holder of an out-of-state driver's license from the following jurisdiction _____. Driver's License Number _____

☐ Defendant's non-resident driving privileges are hereby revoked for _____ months.

If the offense occurred on or after February 1, 1993 but was before March 13, 1995 and the sentence is to probation or to a state correctional facility, a transaction fee of up to \$1.00 is ordered for each occasion when a payment or installment payment is made. (P.L. 1992, c. 169). If the offense occurred on or after March 13, 1995 and the sentence is to probation, or the sentence otherwise requires payments of financial obligations to the probation division, a transaction fee of up to \$2.00 is ordered for each occasion when a payment is made. (P.L. 1995, c. 9).

If the offense occurred on or after August 2, 1993, a \$75 Safe Neighborhood Services Fund assessment is ordered for each conviction. (P.L. 1993, c. 220) 75.00

If the offense occurred on or after January 5, 1994 and the sentence is to probation, a fee of up to \$25 per month for the probationary term is ordered. (P.L. 1993, c. 275) Amount per month \$_____.

If the crime occurred on or after January 9, 1997, a \$30 Law Enforcement Officers Training and Equipment Fund penalty is ordered. 30.00

If the crime occurred on or after May 4, 2001, and the defendant has been convicted of aggravated sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endanger the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a minor under 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(4), luring or enticing a child pursuant to 2C:13-8, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor, kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting child prostitution pursuant to 2C:34-1b(3) or (4), or an attempt to commit any of these crimes, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered for each of these offenses.

Name (Court Clerk or Person preparing this form)

Mary Ann McGevna, Crim. Div. Mgr. sas

Telephone Number

732-677-4523

Name (Attorney for Defendant at Sentencing)

Daniel Giaquinto, Esq.

STATEMENT OF REASONS - Include all applicable aggravating and mitigating factors

The aggravating factor is the need for deterring the defendant and others from violating the law.
The mitigating factors are the defendant compensated the victim of his conduct for the damage or injury that he sustained; and the defendant has no history of prior delinquency or criminal activity.
The aggravating factors outweigh the mitigating factors. This was a negotiated plea.

Judge (Name)

Patricia Del Bueno Cleary, J.S.C.

Judge (Signature)

Patricia Del Bueno Cleary

Date

8/10/07

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED¹**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Confidential Information page enclosed with these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings.

¹APPROVED BY THE BOARD ON MAY 10, 2000

If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act, (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct: (1) Which revokes or suspends (or otherwise restricts) a license; (2) Which censures, reprimands or places on probation; (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such federal or State agency that is publicly available information.

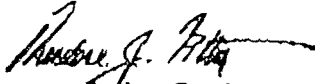
Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis. Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy. Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy. On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document

SUPERIOR COURT OF N.J.
FILED

OCT 11 2006


Acting ClerkSUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury

Number SGJ528-06-14Superior Court 08-10-00115-S
Docket Number

STATE OF NEW JERSEY)

v.)

INDICTMENT

JUAN CARLOS FISCHBERG)

and)

GEZEL VILLANUEVA)

The Grand Jurors of and for the State of New Jersey, upon their
oaths, present that:

COUNT ONE

(Health Care Claims Fraud - Second degree)

JUAN CARLOS FISCHBERG

who was a practitioner, licensed to practice medicine in the State
of New Jersey, between on or about January 1, 1998, and on or about
August 26, 2003, at the Township of Pluckemin, in the County of
Morris, at the Township of Freehold, in the County of Monmouth, at
the Townahip of West New York, in the County of Hudson, elsewhere,
and within the jurisdiction of this Court, doing business as Hudson
Rehabilitation Medical Center, P.A., knowingly did commit Health
Care Claims Fraud in the course of providing professional services,
in that the said JUAN CARLOS FISCHBERG did knowingly make, or cause
to be made, false, fictitious, fraudulent or misleading statements

of material fact in, or knowingly did omit material facts from, or knowingly did cause material facts to be omitted from, any records, bills, claims or other document, in writing, electronically or in any other form that a person attempted to submit, submitted, caused to be submitted or attempted to cause to be submitted to insurance carriers, to include AAA Insurance Company, AAA-Midlantic Insurance Company, Allstate Insurance Company, CNA Insurance Company, Chubb Insurance Company, First Trenton Insurance Company, Keystone Insurance Company, Liberty Mutual Insurance Company, NJM Insurance Company, Ohio Casualty Insurance Company, One Beacon Insurance Company, Peerless Insurance Company, Progressive Insurance Company, Prudential Insurance Company, Robert Plan Insurance Company, Sentry Insurance Company, and State Farm Insurance Company, for payment or reimbursement for health care services, contrary to the provisions of N.J.S.A. 2C:21-4.3, and against the peace of this State, the government and dignity of the same.

PETER C. HARVEY
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th floor
124 Halsey Street
P.O.B. 45029
Newark, New Jersey 07101
By: Joan D. Gelber
Deputy Attorney General
Tel. 973-648-4741

FILED

January 15, 2004
**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF AN INQUIRY INTO :
THE MEDICAL PRACTICE OF
JUAN CARLOS FISCHBERG, M.D.
IN THE STATE OF NEW JERSEY :

ADMINISTRATIVE ACTION
INTERIM ORDER AND AGREEMENT

This matter was opened to the State Board of Medical Examiners by Peter C. Harvey, Attorney General of New Jersey, by Joan D. Gelber, Deputy Attorney General, regarding an inquiry into the medical practice of Juan Carlos Fischberg, M.D., who currently holds license no. MA8649 in this State and has maintained medical offices under the corporate name "Hudson Rehabilitation Medical Center, Inc." at 321 60th St., West New York, NJ 07093. His practice has included electrodiagnostic testing and physiatric treatment of patients claiming injury in motor vehicle accidents ("PIP" claims) and patients covered by Medicare and Medicaid. Dr. Fischberg is represented by Steven I. Kern, Esq.

Dr. Fischberg has been made aware that the Attorney General is prepared to file an Administrative Complaint against him seeking emergent temporary restraints, alleging an extended pattern of conduct involving physical examinations of patients; performance or reporting performance of electrodiagnostic testing; preparation of testing reports containing data, diagnoses, and interpretations of said testing and billing therefor, which the Attorney General expects to allege was grossly negligent and/or fraudulent, in violation of numerous laws and regulations implemented by the Board, including N.J.S.A. 45:1-21(b), (c), (d), (e) and (h), and N.J.S.A. 45:9-6, and N.J.A.C. 13:35-2.5 (now recodified as -2.6), and 13:35-6.5.

CERTIFIED TRUE COPY

Dr. Fischberg, having had the opportunity to confer with his attorney, and making no admissions of any wrongful conduct, but desirous of avoiding the imminently anticipated litigation, has offered to refrain from any form of medical practice in this State at any location and in any form of media, unless he has first given two weeks' notice to the Board and to the Attorney General, or until further Order of the Board.

The Board has considered this matter, and is satisfied that the public interest and welfare can be adequately protected in the circumstances at this time by the entry of such agreement and by this Order precluding Dr. Fischberg from engaging in any form of medical practice until the scheduling of further proceedings on this matter on notice to all parties. For good cause shown,

IT IS, ON THIS 15 DAY OF January 2004

ORDERED:

1. The Board hereby accepts the representation by Dr. Fischberg, as set forth in this Agreement and Order, that he shall refrain from engaging in the practice of medicine and surgery in any form in the State of New Jersey, and so confirms by this Order, on the conditions below.
2. Juan Carlos Fischberg, M.D. shall refrain from engaging in, and is hereby prohibited from engaging in, any practice of medicine or surgery until such time as he has given two weeks advance notice to the Board and to the Attorney General, or until further Order of the Board.. "Practice", for the purpose of this Order, means any form of diagnosing, treating, operating or prescribing for any human ailment, disease, pain, injury, deformity, mental or physical condition of a New Jersey patient, whether such conduct takes place within or outside of the geographic borders of the State and includes practice in any medium of communication.
3. Dr. Fischberg shall place his engrossed license and his New Jersey biennial registration, his State and federal Drug Enforcement Administration registrations, and all prescription pads, into the custody of his attorney who shall confirm receipt to the Board.
4. Dr. Fischberg shall comply with the Directives attached hereto and incorporated in this Order.
5. The provisions of the Notice attached hereto are incorporated in this Order.

- JAN. 14. 2004 9:58AM KERN AUGUSTINE

NO. 9355 P. 4

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6. The entry of this Order shall not preclude either the Attorney General or Dr. Finckberg from initiating any proceedings before this Board as authorized by law.

STATE BOARD OF MEDICAL EXAMINERS

By: David M. Wallace, M.D.
DAVID M. WALLACE, M.D.
President

I consent to the entry and filing
of this Order and Order by
the State Board of Medical Examiners

James C. Finckberg, M.D.
James C. Finckberg, M.D.

Kern Augustine Conway & Schepman
Kern Augustine Conway & Schepman

By: [Signature]

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED¹**

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Confidential Information page enclosed with these directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5, if included, applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings.

¹APPROVED BY THE BOARD ON MAY 10, 2000

If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct: (1) Which revokes or suspends (or otherwise restricts) a license; (2) Which censures, reprimands or places on probation; (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis. Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy. Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy. On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board. From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.